

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of the Petition of

The United Power Line Council

For a Declaratory Ruling Regarding the  
Classification of Broadband Over Power Line  
Internet Access As An Information Service

WC Docket No. 06-10

**COMMENTS OF VIRTUAL HIPSTER CORPORATION**

Virtual Hipster Corporation (“Virtual Hipster”) submits the following comments in response to the Petition For Declaratory Ruling regarding the classification of broadband over power line Internet access service as an information service (“Petition”) filed by United Power Line Council’s (“UPLC”) in the captioned proceeding.

Virtual Hipster is a CLEC and wireless ISP serving rural Nevada. In deploying its facilities, Virtual Hipster seeks to install its transceiver equipment on utility poles owned by power companies. Power company pole owners already are seeking to charge monopoly rents, and demanding unreasonable terms and conditions in pole attachment negotiations. *See* Comments of Virtual Hipster, *In the Matter of Petition for Rulemaking of Fibertech Networks, LLC* RM-11303 (filed January 30, 2006). Virtual Hipster is concerned that as utility pole owners begin to deploy broadband services in direct competition with companies such as Virtual Hipster (1) pole owners will have additional incentives to impose unreasonable terms and conditions of access on attaching entities

competing for the same customers, and (2) BPL will cause harmful interference with attaching entities' co-located equipment.

Virtual Hipster currently is using the unlicensed 900MHz, 2.4GHz and 5.8GHz bands to deliver broadband and telecommunications services and is considering use of the 3650MHz band and opportunities in the UHF band that the FCC may make available in the future. Because Virtual Hipster's equipment will be located on the utility pole only a few feet from the power lines and the BPL facilities, and potentially transmitting in the same bands and using similar equipment, Virtual Hipster is concerned that there is a strong potential for interference from BPL to the bands and equipment used by Virtual Hipster.

Interference from BPL to shortwave, HF and low VHF bands has been well documented. *See, e.g., Letter to FCC Spectrum Enforcement Bureau Re: Interference Complaint, Municipal Broadband Over Power Line System at Manassas, Virginia; Request for Immediate Cessation of Operation*, filed Dec. 19, 2005 by the National Association for Amateur Radio aka American Radio Relay League (AARL). The utilities and BPL equipment manufacturers have admitted to this potential for interference and recently have been working on a variation of BPL called E-Line, which is deployed in the ISM and UNII bands at 2.4GHz and 5GHz. While E-Line seems to have satisfied some BPL critics because of the relatively short range of these higher frequency signals, this flavor of BPL is even more problematic for Virtual Hipster and other wireless ISPs who seek to co-locate equipment on utility poles.

Indeed, if power companies are permitted to deploy E-Line as currently planned, they would be operating in the same band as wireless ISPs, and using similar equipment

and modulation protocols. Unlike other 802.11 devices, which are typically hundreds of feet away from ISP antennas, however, BPL's interference would be located only several feet from Virtual Hipster's pole mounted equipment.

In Corridor's open letter to the FCC dated December 1, 2003, it stated, "Egress measurement along the power line being utilized by the BPL system showed a maximum radiated level of less than -10dBm EIRP, as measured at ground level directly below the power line,' which it further asserted was "less than 1/100th (-20dB) the power of the radiation from a typical wireless client device, such as an 802.11 based wireless network card operating inside a laptop computer." <http://www.corridor.biz/031201-fcc-letter.pdf>. However, Virtual Hipster's pole mounted equipment is likely several hundred feet away from a client device. Thus, the signal power from a client device, after traveling the distance to the pole, would be -70dBm or -80dBm or even lower which is only 1/1,000,000<sup>th</sup> or 1/10,000,000<sup>th</sup> of the power that that will be received from the BPL device. Thus, the BPL device will be a significant source of interference for any antenna and receiver mounted on or near a utility pole employing this flavor of BPL.

The BPL interference issue is particularly problematic because under Part 15 of the FCC's rules, wireless ISPs are required to accept interference. *See* 47 C.F.R. § 15.5 (b). Moreover, pole owners are using their monopoly control of essential pole facilities to dictate the contractual provisions governing co-location. Already they are demanding that attaching entities agree to be responsible, in advance, for any interference issues that may arise in the future, and to pay for any shielding that may be deemed necessary as a result of such interference. Imagine what will happen once the FCC declares BPL unregulated.

Virtual Hipster fully supports deployment of broadband services and is an early adopter of new technology. However, before the Commission declares BPL to be an unregulated information service, it should open a broader rulemaking to consider the precise technologies being deployed and the potential for interference with other communications service providers. In addition, the Commission should carefully consider how the deployment of BPL impacts its regulation of pole attachments.

Respectfully Submitted,



Shad Nygren  
**VIRTUAL HIPSTER CORP.**  
P.O. Box 1091  
Fallon, NV 89407  
(888) 428-2186  
<http://www.hipster.net>

✓ Maria T. Browne  
**COLE, RAYWID & BRAVERMAN,**  
1919 Pennsylvania Avenue, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 659-9750  
(202) 452-0067 (fax)  
[sthompson@crblaw.com](mailto:sthompson@crblaw.com)

**Counsel for Virtual Hipster Corporation**

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